

Statement of Policy Regarding Unsound Financial Condition

(Adopted April 26, 1997)

- I. INTRODUCTION. The North American Securities Administrators Association, Inc. ("NASAA") has determined that the following guideline regarding unsound financial condition is consistent with public investor protection and is in the public interest. Nothing shall prevent the Securities Administrator ("Administrator") from applying different standards than those contained in this Statement of Policy.
- II. An issuer shall be deemed to be in unsound financial condition if the financial statements contain:
 - A. A footnote to the financial statements or an explanatory paragraph in the independent auditor's report regarding the issuer's ability to continue as a going concern; and
 - B. Including, but not limited to, one of the following:
 1. an accumulated deficit; or
 2. negative shareholder equity; or
 3. an inability to satisfy current obligations as they come due; or
 4. negative cash flow (or revenues not being generated by operations).
- III. If the application for registration contains audited financial statements which were issued more than ninety (90) days from the date of application, the accompanying interim unaudited financial statements are subject to the scrutiny of this Statement of Policy.
- IV. An application for registration by an issuer in unsound financial condition may be denied by the administrator.
- V. An application for registration by an issuer in unsound financial condition may be registered by the Administrator if the chief financial officer of the issuer provides pro forma financial data acceptable to the Administrator that:
 - A. demonstrate that the issuer's financial condition will improve either as a direct result of the offering proceeds, or as a proximate result of the offering proceeds (as part of a long term business plan); and

- B. demonstrate when profitability is expected to occur; and
 - C. are supported with documentation of and the bases for any assumptions.
- VI. In addition to satisfying the requirements of V. above, the issuer must:
- A. Include prominent disclosure that the Issuer is considered to be in unsound financial condition, and that persons should not invest unless they can afford to lose their entire investment; and
 - B. Disclose the following risk factors, as applicable:
 - 1. The presence of an explanatory paragraph in the independent auditor's report;
 - 2. If the issuer has not been generating revenues from operations, the means by which the issuer has been financing its operations;
 - 3. The amount of any accumulated deficit;
 - 4. The presence and amount of any negative shareholder's equity;
 - 5. The need for future financing.
- VII. Nothing in this Statement of Policy shall prevent the Administrator from imposing net worth standards or limiting the sales of securities to accredited investors in lieu of, or in addition to, the requirements of V. and VI. above. The imposition of these minimal net worth standards does not relieve a dealer from the responsibility of making an independent determination of suitability required under industry standards. Unless the Administrator determines that the risks associated with the offering would require lower standards, public investors shall have the following:
- A. a minimum annual gross income of \$65,000 and a minimum net worth of \$65,000, exclusive of automobile, home and home furnishings; or
 - B. a minimum net worth of \$150,000, exclusive of automobile, home and home furnishings.